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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,157	08/06/2001	Akira Yamamoto	36992.00074 (HAL-ID-169)	1510
30256	7590	05/17/2005	EXAMINER	
SQUIRE, SANDERS & DEMPSEY L.L.P. 600 HANSEN WAY PALO ALTO, CA 94304-1043			PATEL, ASHOKKUMAR B	
			ART UNIT	PAPER NUMBER

2154

DATE MAILED: 05/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/923,157

Applicant(s)

YAMAMOTO ET AL.

Examiner

Ashok B. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2001.  
2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☒ Claim(s) 1-21 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

***Election/Restrictions***

1. Claims 1-21 are presented for examination.
2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I) Claims 1-13 are drawn to a system comprising a plurality of data centers and network interconnecting said plurality of data centers wherein responsive to input received via any of said at least one of a plurality of access gateways, any of said plurality of data centers may be configured as a primary (source) of data, and any of said plurality of data centers may be configured as a secondary (target) of data in a copy operation., classified in Class 709, subclass 220.

Group II) Claims 14-21 are drawn to a method and apparatus comprising receiving write data; storing write data in cache memory; determining whether a transfer type associated with said write data is synchronous; if said transfer type is synchronous, then sending write data to secondary volume, and waiting for response; and providing notification of completion., classified in Class 711, subclass 118.

3. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are unrelated. In the instant case the different inventions are represented by claims 1-13 and claims 14-21 respectively. Claims 1-13 are directed to a system comprising a plurality of data centers and network interconnecting said plurality of data centers wherein responsive to input received via any of said at least one of a plurality of access gateways, any of said plurality of data centers may be configured as a primary (source) of data, and any of said plurality of data centers may be

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configured as a secondary (target) of data in a copy operation lacking particulars of claims 14-21, i. e. a method and apparatus comprising receiving write data; storing write data in cache memory; determining whether a transfer type associated with said write data is synchronous; if said transfer type is synchronous, then sending write data to secondary volume, and waiting for response; and providing notification of completion. Therefore, inventions I and II have different functions, different modes of operation and they have different effects.

4. These inventions are distinct for the reasons given above, and the search required for each Group is different and not co-extensive for examination purpose. For example, the searches for two inventions would not be co-extensive because these groups would require different searches on PTO's classification class and subclass as following:

(a) the Group I search (claims 1-13) would require use of search Class 709, subclass 220 (not require for the invention II).

(b) the Group II search (claims 14-21) would require use of search Class 711, subclass 118. (not require for the invention I).

5. A telephone call was made to Mr. Aron Winninger on May 03, 2005 to address a possibility of restriction requirement, but did not result in an oral election being made.

6. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

7. Applicant is reminded that upon the cancellation of claims to a non-elected

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invention, the inventorship must be amended in compliance with 37 C.F.R. 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. §1.17(h).

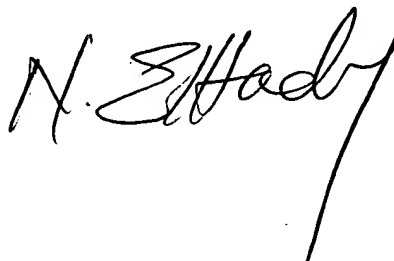
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok B. Patel whose telephone number is (571) 272-3972. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A. Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Abp

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A handwritten signature in black ink, appearing to read "N. El Hadj", with a long, sweeping vertical stroke extending downwards from the end of the signature.